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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/341,379	07/09/1999	VALERIO AISA	MERL0060US	5053

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EXAMINER
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BECKER, DREW E

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 03/21/2003

29

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/341,379

Applicant(s)

AISA, VALERIO

Examiner

Drew E Becker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 34-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 34-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 34-43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claims 34-43 recite a "first set of pre-programmed appliance functions" and a "second set of pre-programmed appliance functions that cannot be selected or controlled from the control panel". It is not clear what constitutes the first and second functions, or how they would differ, since the control system can receive the same type of input from a controller as it can from a control panel.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 34-36 and 38-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Edamula [Pat. No. 4,837,414].

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Edamula teaches a cooking system comprising a control unit with buttons which select and provide parameter values (column 2, line 38), a remote controller which selects and provides pre-programmed functions and parameters separate from the functions and parameters of the control unit (Figure 2, 101; column 2, lines 41-45), appliance control means with a memory which stores programs (Figure 2, 122-123), transmitting and receiving means between the remote controller and the appliance control means (Figure 2, #113, 115, 121, 128), display means for status information (Figure 2, 117), warning means (column 2, line 41). Phrases such as "wherein the status information includes..." are merely preferred methods of using the claimed apparatus and as such are not given patentable weight. Edamula also teaches a method of operating a cooking device by activating buttons on a control unit to provide parameter values (column 2, line 38) and providing data signals to a controller to select pre-programmed control functions separate from the functions of the buttons (column 2, lines 41-45).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Edamula as applied to claim 34 above, in view of Schwarzbacker et al [Pat. No. 5,710,409].

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Edamula teaches the above mentioned components. Edamula teaches a clock in the appliance control means (column 5, line 28). Edamula does not teach a clock in the remote controller which updates the appliance clock. Schwarzbacker et al teach a cooking device comprising a remote control (Figure 1, 51) which includes a clock which updates the appliance (column 4, line 35). It would have been obvious to one of ordinary skill in the art to incorporate the second clock of Schwarzbacker et al into the invention of Edamula since both are directed to cooking devices, since Edamula already included a clock and remote controller which displayed the cooking time (Figures 5A-C), and since Schwarzbacker et al teach that the second clock can be used to adjust and modify the cooking time (column 4, line 38).

### ***Response to Arguments***

8. Applicant's arguments filed January 8, 2003 have been fully considered but they are not persuasive.

Applicant argues that Edamula does not teach a control panel through which a first set of functions can be selected and controlled. However, Edamula clearly teaches a control panel through which a first set of functions can be selected and controlled (column 2, line 38).

Applicant argues that Edamula does not teach an appliance control system in which the first set of functions is selected and controlled through use of an appliance control panel and the second set of functions is not accessible through the control panel, but through a controller. However, Edamula clearly teaches a cooking system

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comprising a control unit with buttons which select and provide parameter values (column 2, line 38) and a remote controller which selects and provides pre-programmed functions and parameters separate from the functions and parameters of the control unit (Figure 2, 101; column 2, lines 41-45).

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E Becker whose telephone number is 703-305-0300. The examiner can normally be reached on Monday-Thursday 7am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1495.

Drew E Becker  
Examiner  
Art Unit 1761

March 11, 2003

  
**KEITH HENDRICKS**  
**PRIMARY EXAMINER**